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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,629	05/15/2001	Raoul Florent	FR 000047	9276

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EXAMINER

NAKHJAVAN, SHERVIN K

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,629

Applicant(s)

FLORENT ET AL.

Examiner

Shervin Nakhjavan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Terminal Disclaimer

1. The terminal disclaimer filed on 5-13-05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent application 09/855,629 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

2. Applicant's arguments, see remarks page 8, filed 12-6-04, with respect to Corby, Jr. (US 5,274,551) not teaching the phase operation as stated in claim 1 have been fully considered and are persuasive. The rejection under 35 U.S.C 102(b) of claims 1, 6, 16 and 18 has been withdrawn.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 18 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is non-statutory because the citation "computer program product" in claim 18 is directed towards descriptive material (i.e. an analog form or digital representation, respectively). Such descriptive material can be classified as being either functional (i.e. the descriptive material imparts functionality on a generic computer when such material is embodied in the computer for example, computer programs or data structures) or non-functional (e.g. music or text). In this case, the descriptive material is none-functional because, it merely describes the data combined, used or processed. The claims do not define any functional operations or relationships

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that would impart functionality on a computer. The following formats are acceptable: "A computer program embodied in a computer readable medium for performing the steps of ..." or "A computer readable medium storing a program for performing the steps of". (See case law in MPEP 2106).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, Line 5, the phrase "the phase operation..... noisy original image" seems to be referring to a previously cited phase operation which does not appear in the claim. Regarding claim 10, Line 2, the phrase "the second phase operation" is also referring to a previously cited second operation which does not appear in the claim. It seems that it should be depending from claim 7. Regarding claim 15, Line 2, the phrases "the selection operation" and "of the Intra-set and Extra-set phases" referring to a previously cited selection and Intra-set and Extra-set phases which are also not found in the claim. Therefore, these citations are vague and confusing because, it is unclear what feature or element is further limited by this language.

Claims 2-9, 11-14 and 16-17 variously depend from an indefinite base claim and are thus themselves indefinite.

Allowable Subject Matter

6. Claims 1-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record specifically Corby, Jr. (US 5,274,551) does not teach conducting a *phase operation* in order to automatically generate one best string from the pixel strings for representing the threadlike structure wherein, the phase operation is based on detecting a relative intensity of pixels in a neighborhood of pixels in the digital noisy image of claim 1 combined with other features and elements of the claim.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Contact information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shervin Nakhjavan whose telephone number is (571) 272-7395. The examiner can normally be reached on Monday through Friday from 8:00 am to 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached at (571)272-7453.

Any response to this action should be mailed to:
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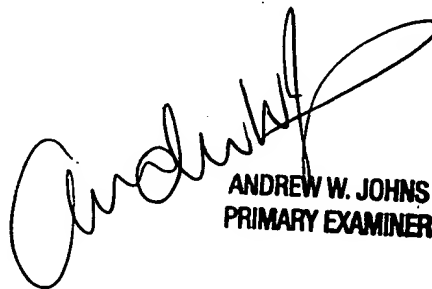
Or faxed to:
(703) 872-9306 for *formal* communications,

Hand delivered responses: (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.)

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Any inquiry of a general nature or relating to the status of this application should be directed to the Tech center 2600 customer service office **(571) 272-2600**.

Shervin Nakhjavan 3. N
Patent Examiner
Group Art Unit 2621
May 20, 2005.


ANDREW W. JOHNS
PRIMARY EXAMINER